

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Public Servants – Case under the PC Act, 1988 against Sri K. Subba Rao, formerly Assistant Engineer, Public Health, Chirala, holding full additional charge the post of Municipal Engineer, Chirala, Prakasam District – Convicted by the Trial Court – Criminal Appeal No.1205 of 2004 was filed by Accused – Hon'ble High Court of Andhra Pradesh allowed Appeal – No grounds for appeal – Application of Smt. K. Ramadevi W/o late Sri Kalluri Subba Rao, Assistant Engineer for benefits – Regarding.

MUNICIPAL ADMINISTRATION & URBAN DEVELOPMENT (VIG.I) DEPARTMENT

G.O.Rt.No. 867

Dated:23-5-2013;
Read the following:

1. From the Director General, ACB, Hyderabad
letter Rc.No.126/RCT- NPK/1998, Dated:21.8.2012.
2. From Smt. Kalluri Rama Devi, W/o late Sri Kalluri Subba Rao,
formerly Asst. Engineer (Public Health)

ORDER:

Whereas, the report of the Director General, Anti Corruption Bureau, Hyderabad was informed that Sri K. Subba Rao, formerly Assistant Engineer, Public Health was trapped successfully, while he demanded and accepted illegal gratification. The Accused Officer, Sri K. Subba Rao, formerly Assistant Engineer, Public Health was placed under suspension vide G.O.Rt.No. 859 MA Dated: 28.9.1998. The Director General, Anti Corruption Bureau, Hyderabad has in his final report dated: 5.1.1999 has recommended to prosecute the Accused Officer. Government after examination of the matter have issued orders vide G.O.Ms.No. 176 MA Dated: 16.4.1999 for prosecuting the Accused Officer in the Court of SPE and ACB Cases. The Director General, Anti Corruption Bureau vide his letter dated: 26.6.2004 informed that the Special Judge for SPE & ACB, Nellore pronounced judgement on 23.6.2004 finding that the Accused Officer, Sri K. Subba Rao, Assistant Engineer, Public Health, Chirala, holding full Additional charge the post of Municipal Engineer, Chirala, Prakasam District, guilty of the charges framed against him and convicted and sentenced him to under go rigorous imprisonment for a period of six months with a fine of Rs.1,000/- for the offence under section 7 of Prevention of Corruption Act, 1988 and also sentenced him to under go rigorous imprisonment for one year with a fine of Rs.2000/- for the offence under section 13 (2) read with 13 (1) (d) of Prevention of Corruption Act, 1988.

2. Whereas, Government after examination of the matter, the Engineer-in-Chief (Public Health), Hyderabad has directed to dismiss Sri K. Subba Rao, Assistant Engineer from service forthwith as he is convicted by the Special Judge for SPE & ACB Cases, Nellore.

3. Whereas, in the reference 1st read above, the Director General, Anti Corruption Bureau, Hyderabad has forwarded the copy of judgement in CrI. Appeal No. 1205/2004 and opinion of ASC-cum-Spl. PP for ACB, High Court of Andhra Pradesh and informed that the Bureau is of the opinion that there are no grounds to prefer S.L.P., in the Supreme Court of India against the order of the High Court of Andhra Pradesh.

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4. The Director General, Anti Corruption Bureau, Hyderabad has requested the Government to communicate the orders in the matter.

5. In the judgement dated: 19.3.2012 in Criminal Appeal No. 1205/2004 and Crl. AMP NO. 517/12 the Hon'ble High Court of Andhra Pradesh has disposed of the Cr. Appeal as follows:

The ingredients that have to be proved by the prosecution in establishing an offence under section 7 and 13 (i) (d) read with section 13 (2) of the Act are (i) money demanded by the A.O. and (ii) on such demand, the said money was paid to him and the same was accepted by him. It is the bounden duty of the prosecution to establish the essential ingredients of demand and acceptance. If the demand and acceptance are proved by the prosecution, the presumption under section 20 of the Act will operate. Further it is well settled that the demand should be proved by independent witnesses. In the entire case of the prosecution, except P.W.1s evidence, no other witness speaks about the demand and acceptance of the said bribe amount by the A.O. Further there is no explanation by the prosecution that when the mediators, those who are Government Officials are also available with the trap party, what prevented the investigation officer from asking one of such mediators to accompany P.W.1 to the room of A.O. to establish the case of the prosecution that there was demand and acceptance of bribe by the A.O. When there is no independent evidence adduced by the prosecution to establish the said demand and acceptance, it is highly unsafe to convict a person merely because the phenolphthalein test ended positive. Unless and otherwise these demand and acceptance is established by the prosecution through independent witnesses, it is highly unsafe to convict the A.O. for the offences with which, he stood charged. Hence, this court is of the view that there is no need to enter in to the other evidence adduced by the prosecution, which is only necessary to be appreciated, if the prosecution prima facie established the demand and acceptance of bribe by the appellant herein. Hence, the conviction and sentence imposed by the Court below are liable to be set aside and the same are hereby set aside.

6. Whereas in the reference 2nd read above, Smt. K. Rama Devi, wife of late K. Subba Rao has represented to Government that her husband Sri Kalluri Subba Rao expired on 10.3.2011. She has requested to release consequential benefits of her husband as the Hon'ble High Court of A.P. allowed the Crl. Appeal. She enclosed death certificate of her husband and legal heir certificate.

7. Government, after examination of the matter, duly obtaining the advice of the Competent authority, consider that there are no cogent grounds to carry, the matter before the Apex Court against the above judgement dt. 19.3.2012 of the Hon'ble High Court of Andhra Pradesh. Accordingly, Government hereby decide to implement the order dated: 19.3.2012 of the Hon'ble High Court of A.P. in Crl. Appeal No. 1205/2004 and Crl. AMP NO. 517/12 and to release all the terminal benefits to the family of Late Sri K. Subba Rao, formerly Assistant Engineer, Public Health.

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8. The Engineer-in-Chief (Public Health), Hyderabad shall take necessary action for release of pensionary benefits to Smt. K. Rama Devi, wife of late Sri K. Subba Rao, AE (Public Health) as per Rule 9 (7) of A.P. Revised Pension Rules, 1980 and submit proposals to Government, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

B. SAM BOB
PRINCIPAL SECRETARY TO GOVERNMENT

To:

The Engineer-in-Chief (Public Health), Hyderabad.

Smt. Kallu Ramadevi, W/o Late K. Subba Rao,
Kotthapeta village, Vetapelem Mandal, Prakasam District.

Copy to:

The Director General, Anti Corruption Bureau, Hyderabad.

The Secretary to Vigilance Commission, APVC, Hyderabad.

The PS to Minister (MA).

SF/SC.

//FORWARDED :: BY ORDER//

SECTION OFFICER.